Neo Man Lee v Public Prosecutor

COURT OF CRIMINAL APPEAL (SINGAPORE) — CRIMINAL APPEAL NO 10 OF 1989
YONG PUNG HOW CJ, LAI KEW CHAI AND GOH JOON SENG JJ
30 MAY 1991

Criminal Procedure — Sentence — Life imprisonment — Conviction on charge of culpable homicide not amounting to murder — Accused suffering from chronic schizophrenia — Whether sentence of life imprisonment justified — Penal Code (Cap 224, 1985 Ed), s 304(a)

The appellant was convicted and sentenced to life imprisonment with effect from 27 September 1984 on a charge of culpable homicide not amounting to murder, an offence punishable under s 304 of the Penal Code (Cap 224, 1985 Ed). The trial judge had, in assessing sentence, taken into consideration the history of the accused's mental illness and that he has had several relapses, one of which had occurred on the night that he had stabbed his victim. The trial judge was of the view that a long-term imprisonment would protect the public against the accused and the accused would get proper medical care and attention. The accused appealed against sentence.

Held, dismissing the appeal:

(1) A sentence of life imprisonment is justified if the following conditions are met: (i) where the offence is in itself grave enough to require a very long sentence; (ii) where it appears from the nature of the offences or from the defendant's history that he is a person of unstable character likely to commit such offences in the future; (iii) where if the offences are committed, the consequences to others may be specially injurious, as in sexual offences or crimes of violence.

(2) The psychiatrists' reports on the accused were to the effect that he would require a long-term drug treatment for an indefinite period to minimize relapses during which he might pose a danger to society and himself. The conditions for a sentence to imprisonment for life were clearly satisfied — the appellant is clearly a continuing danger not only to himself but also to the public. He should be detained as long as it was permissible under the law.

Cases referred to

1 *Rowland Jack Foster Hodgson* (1968) 52 Cr App R 113 (folld)

Legislation referred to

Penal Code (Cap 224, 1985 Ed) s 304(a)

Appellant in person.
Jasvender Kaur (State Counsel) for the Public Prosecutor.

Cur Adv Vult

Yong Pung How CJ (delivering the judgment of the court: The appellant was convicted and sentenced to life imprisonment with effect from 27 September 1984 on a charge of culpable homicide not amounting to murder, an offence punishable under s 304 of the Penal Code (Cap 224, 1985 Ed). He appealed against sentence.

On 4 September 1984 at the Westpeak Condominium the appellant stabbed a 29-year-old woman and caused her death. The deceased had been in the swimming pool of the condominium together with her husband, nephews and niece. At about 8.45pm she came out of the swimming pool and went to the ladies' changing room to change. In the changing room, she was attacked by the appellant with a knife. Another resident of Westpeak Condominium was near the swimming pool at the time and heard the deceased scream. He ran towards the entrance of the changing room and saw the appellant running out naked. He attempted to strike the appellant with a squash racket which he was carrying, and was stabbed by the appellant on his chin and his left hand. The appellant then fled.

The deceased had in all 21 injuries — three stab wounds, five bruises, 12 incised wounds and some loss of skin on her nose. The fatal injury was a stab would in her left chest which penetrated the left lung to a depth of 7.5cm to 8.5cm. The cause of death was certified to be 'left haemothorax due to stab wound of the left lung'.

The appellant was arrested on 27 September 1984. After a trial which stretched from 3 October 1988 to 25 May 1989 he was convicted and sentenced to life imprisonment under s 304(a) of the Penal Code with effect from the date of his arrest. Section 304 reads as follows:

> Whoever commits culpable homicide not amounting to murder shall be punished:
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> (a) with imprisonment for life, or imprisonment for a term which may extend to 10 years, and shall also be liable to fine or to caning, if the act by which death is caused is done with the intention of causing death, or of causing such bodily injury as is likely to cause death; or
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> (b) with imprisonment for a term which may extend to 10 years, or with fine, or with both, if the act is done with the knowledge that it is likely to cause death, but without any intention to cause death, or to cause such bodily injury as is likely to cause death.

Before he was charged at the commencement of the trial, the appellant was medically examined by a psychiatrist at the request of his counsel and the psychiatrist was of the opinion that he was mentally fit to stand trial and plead. After he was convicted on 29 March 1989, further medical reports on him were obtained from two psychiatrists before he was sentenced on 25 May 1989. In sentencing him, Chua J said:

> I have taken into consideration what your counsel has urged on your behalf in mitigation. In assessing sentence, I have taken into consideration the history of your mental illness. You have been mentally ill since you were 15 years of age and you were first diagnosed as suffering from schizophrenia, that is a major mental illness, on 29 April 1975 and you have received regular treatment as an outpatient from 1975 to 1980. You suffered a relapse in June of 1980. You were apprehended by the police because you

were running around and causing a public nuisance and you were admitted to Woodbridge Hospital on 23 June 1980. You were given the requisite treatment and discharged on 10 July 1980. Then a few days later, you had another relapse and you were re-admitted to the Woodbridge Hospital by your father and your father took you to the hospital on 21 July 1980. Then you absconded from hospital on 28 August but you were brought back to the hospital by your father on 1 September 1980 where you continued to receive treatment as an outpatient. Between 1980 and 1983, you received regular treatment as an outpatient. Then you had another relapse in April 1983. You were apprehended by the police for abnormal behaviour and you were re-admitted into the Woodbridge Hospital on 21 April 1983, and after treatment, you were discharged on 9 May. Thereafter, you attended regularly for treatment as an outpatient. On 4 September 1984, it appears that you had a relapse and you killed this unfortunate lady that night. Now, it is clear to me that when you stabbed her, it was done with the intention of causing some bodily injuries as would likely to cause death. Now, while in remand, you received medical treatment for your illness. However, according to the doctor, you showed signs of relapse in November 1987 and January 1988. The doctors have reported that you are suffering from a chronic schizophrenic illness which requires a long-term maintenance drug treatment for an indefinite period and that is to minimize relapses and if you have a relapse, you may pose a danger to yourself and to society. Now, the public must be protected against you and the detention, in my view, should be as long as it is permissible under the law. A long-term imprisonment would also be for your own good because whilst in prison, you will get proper medical care and attention. I will be failing in my duty if I do not sentence you to a long term of imprisonment. You are sentenced to imprisonment for life.

Before the Court of Criminal Appeal, the appellant appeared in person to appeal against the sentence of life imprisonment. His appeal consisted of only two statements: first, that he had pleaded guilty to the charge, which was of course not true; and secondly he asked for a lighter sentence of three or four years. Section 304(a) is, on the face of it, rather curiously drafted, because in addition to the sentence to imprisonment for life, there is the alternative possibility of a much lighter custodial sentence up to a maximum of ten years. The only question in the present case was whether the sentence to imprisonment for life was justified.

The deputy public prosecutor referred us to a report on sentencing from the Criminal Division of the Court of Appeal in England in the case of *Rowland Jack Foster Hodgson*[1] which carried the following statement by MacKenna J, with which we are in broad agreement:

> When the following conditions are satisfied, a sentence of life imprisonment is in our opinion justified: (1) where the offence or offences are in themselves grave enough to require a very long sentence; (2) where it appears from the nature of the offences or from the defendant's history that he is a person of unstable character likely to commit such offences in the future; and (3) where if the offences are committed the consequences to others may be specially injurious, as in the case of sexual offences or crimes of violence.

In the present case, the appellant has been suffering from schizophrenia, a major mental illness, since 1975. Both the psychiatrists' reports, which were considered by the court before sentence was passed, were to the effect that he would require a long term drug treatment for an indefinite period to minimize relapses during which he might pose a danger to society and himself. In fact, the appellant had two relapses in 1980, one in 1983 and one in 1984 when he committed the present offence; and, while he was in remand in 1987 and 1988 he had two more relapses lasting one week and one month respectively.

We were of the opinion that the conditions for sentence to imprisonment for life were clearly satisfied in the present case and justified a life sentence. The appellant is clearly a continuing danger not only to himself but also to the public. The trial judge was of the view, which we shared, that he should be detained as long as it was permissible under the law. We might add that, with remissions, life imprisonment in Singapore may be reduced in practice to no more than 14 years, and the appellant may in fact be out of prison in another seven years.

Appeal dismissed.

Reported by *Zarinah Marican*